

JOURNAL OF THE HOUSE.

Monday, April 25, 2005.

Met at seven minutes past ten o'clock A.M.

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

God, Our Creator, we look to You for guidance, wisdom and the intellectual and moral courage to address thoughtfully the content, the proposals and the issues which are contained in the year's 2006 state budget. Inspire us to do what is right and reasonable as we struggle to meet the many needs and the expectations of the people who depend upon our sound legislative judgements. Help us to direct and share our limited material resources in a fair and just manner, so that the people and the common good are well served in these times of change and technological innovation. Let our hearts and minds be filled with hope and a commitment to our personal ideals, goals, principles and religious beliefs. The future of our children and the Commonwealth depend upon our decisions today.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Speaker, the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Cabral of New Bedford) on the occasion of the Whaling City Branch 18 of the National Association of Letter Carriers in New Bedford, Dartmouth and Acushnet National Food Drive Day;

Resolutions (filed by Mrs. Gomes of Harwich) congratulating Dr. Vida Gavin on her retirement as superintendent of Chatham Public Schools;

Resolutions (filed by Ms. Kaprielian of Watertown) recognizing Multiple Sclerosis Week May 15-21, 2005;

Resolutions (filed by Mr. Keenan of Salem) on the occasion of the retirement of Deputy Chief Thomas Brophy;

Resolutions (filed by Mr. Keenan of Salem) on the occasion of the retirement of firefighter Ronald Fournier;

Resolutions (filed by Mr. Keenan of Salem) on the occasion of the retirement of Lieutenant Ronald Holloran;

Resolutions (filed by Mr. Keenan of Salem) on the occasion of honoring the memory of Captain William Hudson;

Resolutions (filed by Mr. Keenan of Salem) on the occasion of the retirement of Lieutenant Robert Lemelin, Sr.;

Resolutions (filed by Mr. Keenan of Salem) on the occasion of the retirement of Lieutenant Clifford Lewis;

Resolutions (filed by Mr. Keenan of Salem) on the occasion of the retirement of the Salem Theatre Company founder artistic Matteo Pangallo;

Resolutions (filed by Mr. Keenan of Salem) on the occasion of the retirement of Local #172 honorary member and former State Representative J. Michael Ruane;

Resolutions (filed by Mr. Keenan of Salem) on the occasion of the retirement of firefighter/inspector Donald Weston;

Resolutions (filed by Messrs. O'Brien of Kingston, Straus of Mattapoisett and Canessa of Lakeville) congratulating Paul Provencher on being named "Man of the Year" by the Kiwanis Club of Middleboro; and

Resolutions (filed by Mr. Speliotis of Danvers) honoring Elizabeth "Libby" Evans Wright;

Mrs. Harkins of Needham, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Mr. O'Brien, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Special Communications.

The following communication, together with returns of votes and schedules therein referred to, was received from the Secretary of the Commonwealth, to wit:-

COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE SECRETARY
STATE HOUSE, BOSTON 02133

April 20, 2005.

To the Honorable House of Representatives:

I have the honor to lay before you the returns of votes cast at the special election held in this Commonwealth on the twelve day of April, 2005 for Representative in General Court, Third Berkshire District, together with schedules showing the number of ballots which appear to have been cast for each person voted for.

These returns have been duly canvassed by the Governor and Council, and are now transmitted for examination by the House of Representatives, as required by the Constitution.

Very truly yours,
WILLIAM FRANCIS GALVIN,
Secretary of the Commonwealth.

The communication was read; and, there being no objection, it was placed on file.

The following communication, together with returns of votes and schedules therein referred to, was received from the Secretary of the Commonwealth, to wit:-

COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE SECRETARY
STATE HOUSE, BOSTON 02133

April 20, 2005.

To the Honorable House of Representatives:

I have the honor to lay before you the returns of votes cast at the special election held in this Commonwealth on the twelve day of April, 2005 for Representative in General Court, Twelfth Suffolk District, together with schedules showing the number of ballots which appear to have been cast for each person voted for.

These returns have been duly canvassed by the Governor and Council, and are now transmitted for examination by the House of Representatives, as required by the Constitution.

Very truly yours,
WILLIAM FRANCIS GALVIN,
Secretary of the Commonwealth.

The communication was read; and, there being no objection, it was placed on file.

The following communication, together with returns of votes and schedules therein referred to, was received from the Secretary of the Commonwealth, to wit:-

COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE SECRETARY
STATE HOUSE, BOSTON 02133

April 20, 2005.

To the Honorable House of Representatives:

I have the honor to lay before you the returns of votes cast at the special election held in this Commonwealth on the twelve day of April, 2005 for Representative in General Court, Eighteenth Suffolk District, together with schedules showing the number of ballots which appear to have been cast for each person voted for.

These returns have been duly canvassed by the Governor and Council, and are now transmitted for examination by the House of Representatives, as required by the Constitution.

Very truly yours,
WILLIAM FRANCIS GALVIN,
Secretary of the Commonwealth.

The communication was read; and, there being no objection, it was placed on file.

Order.

On motion of Mr. Rushing of Boston,-

Ordered, That a special committee be appointed to wait upon His Excellency the Governor and inform him that Representatives-elect Linda Dorcena Forry of the Twelfth Suffolk District, Michael J. Moran of the Eighteenth Suffolk District and Christopher N. Speranzo of the Third Berkshire District are assembled in the Chamber of the House of Representatives and are ready to take the oaths and affirmations of qualification.

Representatives Rushing, St. Fleur of Boston, Honan of Boston, Bosley of North Adams, Smizik of Brookline, Donato of Medford, Flanagan of Leominster, deMacedo of Plymouth, Walz of Boston, Wolf of Cambridge and Canessa of Lakeville were appointed the committee.

Subsequently Mr. Rushing, for the committee, reported that they had attended to the duty assigned them, and that the Governor had stated that he would attend forthwith and administer the oaths of office.

Members Qualified.

Soon afterward His Excellency the Governor, Mitt Romney, accompanied by the Honorable William Francis Galvin, Secretary of the Commonwealth, the Honorable A. Joseph DeNucci, Auditor of the Commonwealth, the Honorable Timothy P. Cahill, Treasurer and Receiver-General of the Commonwealth, and members of the Honorable Council came in; the oaths and affirmation required by the Constitution and laws were administered by the Governor to the members-elect then present, and were subscribed by them; after which His Excellency declared that the members were duly qualified to enter upon the discharge of their duties. Michael J. Moran of Boston and Christopher N. Speranzo of Pittsfield,-qualification.

After brief remarks by each newly qualified member, the Speaker assigned Ms. Forry to Seat No. 138, Mr. Moran to Seat No. 79 and Mr. Speranzo to Seat No. 93.

His Excellency the Governor, the Constitutional Officers present, and the Honorable Councillors present then departed the Chamber under escort of the Sergeant-at-Arms.

Guests of the House.

The Speaker then declared a brief recess and introduced Boston City Councillors Maureen E. Feeney, Stephen J. Murphy and Charles C. Yancey. They were the guests of the entire Boston delegation.

Recess.

At five minutes before eleven o'clock A.M., on motion of Mrs. Harkins of Needham, the House recessed until one o'clock P.M.; and at that time the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Papers from the Senate.

A Bill making special provisions for the placement of certain questions on the town of Spencer annual election ballot (Senate bill printed in House, No. 2929) (on a message from His Excellency the Governor), passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Hill of Ipswich, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently, under suspension of the rules, on motion of Ms. Gobi of Spencer, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed, in concurrence, its title having been changed by said committee to read: "An Act placing certain questions on the annual election ballot in the town of Spencer."

Petitions were referred, in concurrence, under suspension of Joint Rule 12, as follows:

Petition (accompanied by bill, Senate, No. 2037) of Therese Murray, Viriato Manuel deMacedo and Thomas J. O'Brien for legislation relative to the installation of carbon monoxide detectors in residential buildings ("Nicole's Law"). To the committee on Public Safety and Homeland Security.

Petition (accompanied by bill, Senate, No. 2038) of Brian P. Lees for legislation to provide for a partial release of certain land in the town of Granby from the operation of a non-development covenant. To the committee on Bonding, Capital Expenditures and State Assets.

Reports of Committees.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the Senate Bill relating to the collection of taxes in the town of Sandwich (Senate, No. 2026) [Local Approval Received] be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Donelan of Orange, the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Donato of Medford, for the committee on Steering, Policy and Scheduling, that the House Bill establishing a sick leave bank for a certain

employee of the Trial Court (House, No. 2799) be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Vallee of Franklin, the bill was read a second time forthwith; and it was ordered to a third reading.

By Ms. Kaprielian of Watertown, for the committee on Municipalities and Regional Government, on a petition, a Bill relative to a certain parcel of land in the town of Shrewsbury (House, No. 2794) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Peterson of Grafton, the bill was read a second time forthwith; and it was ordered to a third reading.

By Ms. Kaprielian of Watertown, for the committee on Municipalities and Regional Government, on a petition, a Bill relative to the payment of costs for systems of sewerage and sewage disposal in the town of Shrewsbury (House, No. 2795) [Local Approval Received]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Mr. Donato of Medford, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. deMacedo of Plymouth, the bill was read a second time forthwith; and it was ordered to a third reading.

Engrossed Bill.

The engrossed Bill relative to the representative town meeting for the town of Belmont (see House, No. 1725) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Engrossed Bill -- Land Taking.

The engrossed Bill authorizing the town of Westport to convey certain conservation land to the board of selectmen for the purpose of constructing a public safety complex (see House, No. 1726, amended) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 152 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 28 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

The House Bill making appropriations for the fiscal year 2006 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4000) was considered.

After remarks on the question on ordering the bill to a third reading, Mr. Perry of Sandwich and Ms. Gifford of Wareham then moved that the bill be amended by adding at the end thereof the following two sections:

“SECTION 35. Subsection (a) of section 3 of chapter 62 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out subdivision (13) in its entirety and inserting in place thereof the following subdivision:-

(13) An amount equal to the amount of the charitable contribution deduction allowed or allowable to the taxpayer under section 170 of the Code; provided, however, that, in taxable years beginning on or after January 1, 2004, no such deduction shall be allowed in any taxable year unless the personal exemptions provided in subparagraph (A) of subdivision (1) of subsection (b) of this section, subparagraph (A) of subdivision (1A) of subsection (b) of this section, and subparagraph (A) of subdivision (2) of subsection (b) of this section for such taxable year are the maximum allowable amounts set forth in said subparagraphs; and provided further, that notwithstanding said section 170 of the Code, no deduction shall be allowed for contributions of household goods or used clothing, as those items are recognized under said section 170 of the Code. All requirements, conditions and limitations applicable to charitable contributions under the Code shall apply for purposes of determining the amount of the deduction under this subparagraph, except that taxpayers shall not be required to itemize their deductions in their federal income tax returns.

SECTION 36. Section 4 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out subsection (b) in its entirety and inserting in place thereof the following subsection:—

(b) Part B taxable income shall be taxed at the rate of 5 per cent for taxable years beginning on or after January 1, 2006.”.

After debate on the question on adoption of the amendment, Mr. Binienda of Worcester then moved that the amendment be amended in proposed sections 35 and 36 by adding, in each instance, at the end thereof the following paragraph:

“Notwithstanding any special or general law to the contrary, the provisions of this section shall not take effect until such time as the department of revenue has furnished a study of their impact on the state’s economy and the revenue cost to the commonwealth and its cities and towns, including, but not limited to, a distributional analysis showing the impact on taxpayers of varying income levels, the current practice of other states, any anticipated change in employment, and

ancillary economic activity, to the Joint Committee on Revenue, and, without the further approval of the House and Senate Committees on Ways and Means.”.

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 135 members voted in the affirmative and 21 in the negative.

[See Yea and Nay No. 29 in Supplement.]

Therefore the further amendment was adopted.

The amendment offered by Representatives Perry and Gifford, as amended, then also was adopted.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by adding at the end thereof the following sections:-

“SECTION 37. Subsection (a) of section 3 of chapter 62 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out subdivision (13) in its entirety and inserting in place thereof the following subdivision:-

(13) An amount equal to the amount of the charitable contribution deduction allowed or allowable to the taxpayer under section 170 of the Code; provided, however, that, in taxable years beginning on or after January 1, 2004, no such deduction shall be allowed in any taxable year unless the personal exemptions provided in subparagraph (A) of subdivision (1) of subsection (b) of this section, subparagraph (A) of subdivision (1A) of subsection (b) of this section, and subparagraph (A) of subdivision (2) of subsection (b) of this section for such taxable year are the maximum allowable amounts set forth in said subparagraphs; and provided further, that notwithstanding said section 170 of the Code, no deduction shall be allowed for contributions of household goods or used clothing, as those items are recognized under said section 170 of the Code. All requirements, conditions and limitations applicable to charitable contributions under the Code shall apply for purposes of determining the amount of the deduction under this subparagraph, except that taxpayers shall not be required to itemize their deductions in their federal income tax returns.

SECTION 38. Section 4 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out subsection (b) in its entirety and inserting in place thereof the following subsection:—

(b) Part B taxable income shall be taxed at the rate of 5 per cent for taxable years beginning on or after January 1, 2007.”.

After remarks on the question on adoption of the amendment, Mr. Binienda of Worcester then moved that the amendment be amended in proposed sections 37 and 38 by adding, in each instance, at the end thereof the following paragraph:

“Notwithstanding any special or general law to the contrary, the provisions of this section shall not take effect until such time as the department of revenue has furnished a study of their impact on the state’s economy and the revenue cost to the commonwealth and its cities and towns, including, but not limited to, a distributional analysis showing the impact on taxpayers of varying income levels, the current practice of other states, any anticipated change in employment, and

ancillary economic activity, to the Joint Committee on Revenue, and, without the further approval of the House and Senate Committees on Ways and Means.”.

After remarks the further amendment was adopted.

The amendment offered by Mr. Jones and other members of the House, as amended, then also was adopted.

Mr. Jones of North Reading then moved that the bill be amended by adding at the end thereof the following sections:

“SECTION 39. Subsection (a) of section 3 of chapter 62 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out subdivision (13) in its entirety and inserting in place thereof the following subdivision:—

(13) An amount equal to the amount of the charitable contribution deduction allowed or allowable to the taxpayer under section 170 of the Code; provided, however, that, in taxable years beginning on or after January 1, 2004, no such deduction shall be allowed in any taxable year unless the personal exemptions provided in subparagraph (A) of subdivision (1) of subsection (b) of this section, subparagraph (A) of subdivision (1A) of subsection (b) of this section, and subparagraph (A) of subdivision (2) of subsection (b) of this section for such taxable year are the maximum allowable amounts set forth in said subparagraphs; and provided further, that notwithstanding said section 170 of the Code, no deduction shall be allowed for contributions of household goods or used clothing, as those items are recognized under said section 170 of the Code. All requirements, conditions and limitations applicable to charitable contributions under the Code shall apply for purposes of determining the amount of the deduction under this subparagraph, except that taxpayers shall not be required to itemize their deductions in their federal income tax returns.

SECTION 40. Section 4 of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out subsection (b) in its entirety and inserting in place thereof the following subsection:—

b) Part B taxable income shall be taxed at the rate of 5.15 percent for the taxable year beginning on January 1, 2006, and shall be taxed at the rate of 5 percent for taxable years beginning on or after January 1, 2007.”.

After remarks on the question on adoption of the amendment, Mr. Binienda of Worcester then moved that the amendment be amended in proposed sections 39 and 40 by adding, in each instance, at the end thereof the following paragraph:

“Notwithstanding any special or general law to the contrary, the provisions of this section shall not take effect until such time as the department of revenue has furnished a study of their impact on the state’s economy and the revenue cost to the commonwealth and its cities and towns, including, but not limited to, a distributional analysis showing the impact on taxpayers of varying income levels, the current practice of other states, any anticipated change in employment, and ancillary economic activity, to the Joint Committee on Revenue, and, without the further approval of the House and Senate Committees on Ways and Means.”.

The further amendment was adopted.

The amendment offered by Mr. Jones and other members of the House, as amended, then also was adopted; and the bill (House, No. 4000, amended was ordered to a third reading.

The committee on Bills in the Third Reading reported recommending that the bill be amended by adding at the end thereof the following section:

“SECTION 41. Sections 35 to 40, inclusive of this act (inserted by amendment by the House) shall not take effect until legislation has been filed and passed pursuant to Part II, Chapter I, Section 1, Articles I and II of the Constitution.”.

The amendment was adopted.

At five o'clock P.M., the Chair (Mr. Petrolati of Ludlow) declared a recess until half past five o'clock; and at that time the House was called to order with Mrs. Harkins of Needham in the Chair.

The House thereupon took a further recess, on motion of Mr. Naughton of Clinton, until seven o'clock P.M.; and at sixteen minutes after seven o'clock the House was called to order with Mrs. Harkins in the Chair.

Mr. DeLeo of Winthrop and other members of the House then moved that the bill be amended section 2, in item 1107-2400 by striking out the figures “585,280” and inserting in place thereof the figures “605,280”;

In item 1107-2501 by striking out the figures “1,726,915” and inserting in place thereof the figures “1,746,915”;

By striking out item 4110-1000 and inserting in place thereof the following item:

“4110-1000 For the community services program; provided, that the Massachusetts commission for the blind shall work in collaboration with the Massachusetts commission for the deaf and hard of hearing to provide assistance and services to the deaf-blind community through the deaf-blind community access network; provided further, that not less than \$350,000 shall be expended from this item for the deaf-blind community access network; and provided further, that not less than \$500,000 shall be expended for the talking information center

3,711,958”;

By striking out item 4120-2000 and inserting in place thereof the following item:

“4120-2000 For vocational rehabilitation services operated in cooperation with the federal government; provided, that no funds from the federal vocational rehabilitation grant or state appropriation shall be deducted for pensions, group health and life insurance and any other such indirect cost of the federally reimbursed state employees; and provided further, that the commissioner, in making referrals to service providers, shall take into account the client's place of residence and the geographic proximity of the nearest provider to said residence; provided further, that not less than \$100,000

shall be expended on special vocational projects in the Charlestown neighborhood of Boston for people with disabilities; and provided further, that not less than \$100,000 shall be expended for services provided by the Life Focus Center in the Charlestown neighborhood of Boston

7,476,987”;

By striking out item 4120-3000 and inserting in place thereof the following item:

“4120-3000 For employment assistance services; provided, that vocational evaluation and employment services for severely disabled adults may, subject to appropriation, be provided; provided further, that not less than \$100,000 shall be expended on special projects in the Charlestown neighborhood of Boston for people with disabilities; and provided further, that not less than \$100,000 shall be expended for the Charlestown Navy Yard Project for disabled adults in the Charlestown section in the city of Boston

7,960,068”;

By striking out item 4120-4000 and inserting in place thereof the following item:

“4120-4000 For independent living assistance services; provided, that not less than \$200,000 shall be obligated for the SHARE foundation at the University of Massachusetts; provided further, that not less than \$25,000 will be used to assist the Living Independently for Equality, Inc. of Brockton

7,869,714”;

By striking item 4120-6000 and inserting in place thereof the following item:

“4120-6000 For head injured services; provided, that the commission shall work with the executive office of health and human services to maximize federal reimbursement for clients receiving head injured services; provided, that not less than \$50,000 shall be expended for the Cape Cod Head Injury Program located in Hyannis

7,005,515”;

In item 4125-0100 by striking out the figures “5,320,187” and inserting in place thereof the figures “5,373,170”;

In item 5046-2000 by adding at the end thereof the following: “; provided, that not less than \$90,000 shall be expended for the provision of health services to the homeless and uninsured by Primary Care and Mental Health, Inc. located in the city of Lynn”;

In item 5911-2000 by adding at the end thereof the following: “; provided further, that not less than \$100,000 shall be expended for the Life Focus Center in the Charlestown section in the city of Boston”;

By striking out item 5920-2000 and inserting in place thereof the following item:

“5920-2000 For vendor-operated community-based residential adult services, including intensive individual supports; provided, that \$9,520,000 shall be expended in annualized funding for turning 22 clients who began receiving the services in fiscal year 2005 pursuant to item 5920-5000 of section 2 of chapter 149 of the acts of 2004; provided further, that \$8,250,000 shall be expended for the fiscal year 2005 annualized cost of the settlement agreement Rolland vs. Cellucci, so-called, and \$5,000,000 shall be expended for the fiscal year 2006 cost of the settlement; provided further, that the commissioner of the department of mental retardation shall transfer funds from this item to item 5920-2010, as necessary, pursuant to an allocation plan, which shall detail by object class the distribution of said funds to be transferred and which said commissioner shall file with the house and senate committees on ways and means 15 days prior to any such transfer; and provided further, that not more than \$5,000,000 shall be transferred from this item in fiscal year 2006; provided further, that not less than \$100,000 shall be allocated for Special Olympics for the purpose of unified sports; provided further, that not less than \$50,000 shall be expended for the Advocacy Resource Center in New Bedford to provide critical family support services in the area of community-based resident education for special needs children; and provided further, that not less than \$150,000 shall be expended for Best Buddies Massachusetts

499,419,626”;

In item 5920-2025 by adding at the end thereof the following: “; provided, that not less than \$100,000 shall be expended for the Life Focus Center in the Charlestown section in the city of Boston”;

In item 5920-3000 by striking out the figures “50,789,967” and inserting in place thereof the figures: “51,289,967”; and

By striking out item 5930-1000 and inserting in place thereof the following item:

“5930-1000 For the operation of facilities for the mentally retarded, including the maintenance and operation of the Glavin Regional Center; provided, that in order to comply with the provisions of the Olmstead decision and to enhance care within available resources to clients served by the department, the department shall take steps to consolidate or close intermittent care facilities for the mentally retarded, hereinafter ‘ICF/MRs’, managed by the department and shall endeavor, within available resources, to discharge clients residing in the ICF/MRs to residential services in the

community if the following criteria are met: 1) the client is deemed clinically suited for a more integrated setting; 2) community residential service capacity and resources available are sufficient to provide each client with an equal or improved level of service; and 3) the cost to the commonwealth of serving the client in the community is less than or equal to the cost of serving the client in ICF/MRs; provided further, that any client transferred to another ICF/MR as the result of a facility closure shall receive a level of care that is equal to or better than the care that had been received at the closed ICF/MR; provided further, that the department shall report to the joint committee on human services and the house and senate committees on ways and means on the progress of this initiative, including both past actions and proposed future actions; provided further, that the report shall include information relative to the status of residents of the Fernald Developmental Center; provided further, that the report shall include: the number of clients transferred from facility care into the community, the community supports provided to clients discharged from facility care into the community and the current facility bed capacity relative to the number of clients in ICF/MRs managed by the department; provided further, the report shall also include steps being taken to help minimize increases in travel distances for family members visiting clients at ICF/MRs resulting from the transfer of clients from one ICF/MR to another; provided further, that the department shall submit the report no later than February 15, 2006; provided further, that the department of mental retardation shall submit a plan regarding community transitions from ICF/MRs by January 1, 2006 to the house and senate committees on ways and means; provided further, that said plan shall detail the transition of clients from said school to appropriate settings; provided further, that the plan shall include consideration for the transition of employees of said school into community setting with their clients in order to ensure continuity of service wherever possible; provided further, that said plan shall be subject to the approval of the house and senate committees on ways and means; provided further, that the department may allocate funds from this item to items 5920-2000, 5920-2010, and 5920-2025, as necessary, pursuant to allocation plans submitted to the house and senate committees on ways and means 30 days prior to any such transfer, for residential and day services for clients formerly receiving inpatient care at ICF/MRs; and

provided further, that the department shall maximize federal reimbursement, whenever possible under federal regulation, for the direct and indirect costs of services provided by the employees funded in this item

165,986,286”.

Pending the question on adoption of the amendments, Mr. Linsky of Natick asked for a count of the House to ascertain if a quorum was present. The Chair (Mrs. Harkins of Needham), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 152 members were recorded as being in attendance. No. 30.

[See Yea and Nay No. 30 in Supplement.]

Therefore a quorum was present.

The amendments then were adopted.

Pending the question on passing the bill, as amended, to be engrossed, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair (Mrs. Harkins of Needham), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 155 members were recorded as being in attendance. No. 31.

[See Yea and Nay No. 31 in Supplement.]

Therefore a quorum was present.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 41. The state auditor shall conduct a cost benefit analysis of every report required of state agencies by the legislature. The auditor shall report his findings which shall include: 1) the hours needed to produce the required reports and pay rate of all state employees needed to gather and report the necessary information; provided, that if the information needed for the report is part of the agency’s normal management protocols the cost of gathering the information need not be included, 2.) the cost savings associated with each report required of state agencies, 3.) an aggregate cost of the reports, 4.) an aggregate benefit of the reports, and 5) the net cost/benefit to the state associated to all the required reports.”.

After remarks on the question on adoption of the amendment, the Chair (Mrs. Harkins of Needham) placed before the House the question on suspension of Rule 1A in order that the House might continue to meet beyond the hour of nine o'clock P.M.

On the question on suspension of Rule 1A, the sense of the House was taken by yeas and nays, as required under the provision of said rule; and on the roll call 107 members voted in the affirmative and 48 in the negative.

[See Yea and Nay No. 32 in Supplement.]

Therefore Rule 1A was suspended.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 30 members voted in the affirmative and 135 in the negative.

[See Yea and Nay No. 33 in Supplement.]

Therefore the amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended in section 2 by striking out item 0640-0013; and after debate the amendment was rejected

Mr. DeLeo of Winthrop and other members of the House then moved that the bill be amended in section 2 by striking out item 0521-0000 and inserting in place thereof the following item:

“0521-0000 For the operation of the elections division, including preparation, printing and distribution of ballots and for other miscellaneous expenses for primary and other elections; provided, that the secretary of state may award grants for voter registration and education in the cities of Boston, Springfield, Lawrence and Worcester; provided further, that the registration and education activities may be conducted by community-based voter registration and education organizations; and provided further, that the secretary shall submit a report to the house and senate committees on ways and means not later than January 31, 2006 detailing the amount appropriated for the purposes of providing reimbursements for the costs of extended polling hours from this item to each city or town

3,676,775”;

In item 0640-0000 by striking out the figures “68,610,397” and inserting in place thereof the figures “68,690,397”;

By striking out item 0710-0000 and inserting in place thereof the following item:

“0710-0000 For the office of the state auditor, including the review and monitoring of privatization contracts in accordance with sections 52 to 55, inclusive, of chapter 7 of the General Laws and shared oversight of the central artery/third harbor tunnel project; provided, that a report shall be submitted to the house and senate committees on ways and means not later than December 1, 2005 delineating the privatization contracts reviewed and monitored during fiscal year 2005; provided further, that the report shall further detail the number of full-time equivalent positions assigned by the office for the review of each of the privatization contracts; provided further, that not less than \$67,250 shall be expended for the position of executive director of the central artery/third harbor tunnel project oversight coordination commission, as established in section 2B of chapter 205 of the acts of 1996,

such that the position may continue to provide administrative and investigative functions to the commission in a manner that is consistent with the said section 2B; and provided further, that the auditor's office shall pay half of the administrative costs of the municipal finance oversight board from this item;

15,125,688”;

By striking out item 0810-0000 and inserting in place thereof the following item:

“0810-0000 For the office of the attorney general, including the administration of the local consumer aid fund, the operation of the anti-trust division, all regional offices, a high-tech crime unit and the victim and witness compensation program; provided, that the victim and witness compensation program shall be administered in accordance with chapters 258B and 258C of the General Laws; provided further, that the attorney general shall submit to the general court and the secretary of administration and finance a report detailing the claims submitted to the state treasurer for payment under item 0810-0004 indicating both the number and costs for each category of claim; provided further, that the public proceedings unit shall review the water rate increases; provided further, that not more than \$240,000 shall be expended for the operation of a child protection unit; provided further, that funds may be expended for the commission on uniform state laws; and provided further, that not more than \$250,000 shall be expended from these funds appropriated in this item for a safe neighborhood initiative-pilot program in the Bowdoin/Geneva area of Dorchester.....

21,688,002”;

In item 0810-0014 by striking out the figures “1,588,135” and inserting in place thereof the figures “1,537,181”;

In item 0810-0021 by striking out the figures “2,687,349” and inserting in place thereof the figures “2,835,783”;

In item 0810-0045 by striking out the figures “3,020,008” and inserting in place thereof the figures “3,113,637”;

In item 0810-0201 by striking out the figures “1,434,021” and inserting in place thereof the figures “1,454,431”;

In item 0810-0338 by striking out the figures “280,164” and inserting in place thereof the figures “402,297”; and

In item 0810-0339 by striking out the figures “280,164” and inserting in place thereof the figures “349,459”.

After debate the amendments were adopted.

Recess.

At eighteen minutes before ten o'clock P.M. (Monday, April 25), on motion of Mr. Jones of North Reading) (Mr. Harkins of Needham being in the Chair), the House recess until the hour of ten o'clock A.M. on Tuesday, April 26;

Tuesday, April 26, 2005 (at 10:00 o'clock A.M.).

Prayer.

Pledge of allegiance.

National Food Drive Day.

Vida Gavin.

Multiple Sclerosis Week.

Thomas Brophy.

Ronald Fournier.

Ronald Holloran.

William Hudson.

Robert Lemelin, Sr.

Clifford Lewis.

Matteo Pangallo.

J. Michael Ruane.

Donald Weston.

Paul Provencher.

Elizabeth Evans Wright.

Returns of votes for Representative in the Third Berkshire district.

Returns of votes for Representative in the Twelfth Suffolk district.

Returns of votes for Representative in the Eighteenth Suffolk district.

Governor notified.

Representatives Linda Dorcena Forry of Boston,

Guests of the House.

Recess.

Spencer,- ballot question.

Carbon monoxide detectors,- installation.

Granby,- covenant release.

Sandwich,- tax collection.

Michelle Sharac,- sick leave.

Shrewsbury,- land.

Shrewsbury,- sewage.

Bill enacted.

Westport,- conservation land.

Bill enacted (land taking),- yea and nay No. 28.

General Appropriation Bill.

Further amendment adopted,- yea and nay No. 29.

Recesses.

Quorum.

Quorum,-- yea and nay

Quorum.

Quorum,-- yea and nay

Suspension of Rule 1A.

Rule 1A suspended,- yea and nay No. 32.

Amendment rejected,- yea and nay No. 33.

Recess.